IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4068 OF 2006

Shri S.B. Chapekar ..Petitioner

Vs.

Mr. Nilesh Pandya (Proprietor)
M/s. Jai Somnath Transport. ..Respondent

Mr. I.R. Kulkarni for petitioner.

CORAM: B.H. MARLAPALLE, J.

Date : August 17, 2006.

P.C.:

1. Heard Mr. Kulkarni the learned counsel for the petitioner who is aggrieved by the decision of the Industrial Court dismissing Complaint (ULP) No.41 of 2002.

2. The petitioner was one of the drivers employed by M/s. Jai Somnath Transport, Thane and was initially driving a transport bus which forms part of the fleet of the Reliance Industries Limited at Patalganga and by an order dated 30/10/2001 he was transferred to the fleet which was plying buses for M/s. Ispat Limited. He, therefore, approached the Industrial Court by filing Complaint (ULP) No.41 of

2002 and alleged unfair labour practice under Items 3 and 9 of Schedule IV of the MRTU and PULP Act, 1971. He claims that there was a tri-partite settlement between the contractor and the workmen on one end and the principal employer i.e. M/s. Reliance Industries Ltd. on the other signed on 2/10/2001 and in retaliation he was transferred on 30/10/2001 and thus the transfer was mala fide and against the settlement terms.

3. The Industrial Court noted that in the said settlement there was no term regarding the transfer of drivers or any ban on such transfers. Mr.Kulkarni has placed before me a copy of the said settlement and though it is claimed to be the settlement between three parties, apparently no one has signed this settlement on behalf of Reliance Industries Limited and it appears to be a settlement only between the contractor and the Amar Bauta Kamgar Union.

4. The transfer is an incidence of service and the Industrial Court noted that there was no material placed on record even prima facie to show that the transfer suffered from malice or it was against any

term of contract. This finding of the Industrial Court cannot be termed to be perverse or grossly erroneous if regards be had to the reasoning set out in support of the same in the impugned decision.

5. Hence, no interference is called for in the impugned order under the supervisory powers of this court and, therefore, the petition is rejected summarily.

(B.H. Marlapalle,J.)